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CHAPTER FIVE

SECURITY AND POLICY REVIEW

0500 REFERENCES

a. OPNAVINST 5510.1G. (Subject: Department of the Navy Information and Personnel Security Program Regulation) Basic directive on information security.

b. U. S. Navy Regulations, 1973. Assigns responsibility for safeguarding classified information to the officer in command. Also authorizes the Chief of Naval Operations to embark non-government civilians in naval vessels and aircraft.

c. DoD Manual 5220-22M of March 1984 (NOTAL). (Subject: Industrial Security Manual for Safeguarding Classified Information) Governs the release of classified information by contractors.

d. OPNAVINST 5510.161. (Subject: Withholding of Unclassified Technical Data with Military or Space Application) Basis for withholding unclassified, sensitive information that reveals a militarily critical technology.

e. Executive Order 12344 (1 FEB 82) (NOTAL). Document which assigned responsibility for naval nuclear propulsion matters to the Director, Naval Nuclear Propulsion Program (OP-00N/NAVSEA 08); subsequently codified in 42 USC 7158.

f. OPNAVINST 5721.1D (NOTAL). (Subject: Release of Information on Nuclear Weapons and on Nuclear Capabilities of U. S. Forces) Governs the release of information on all nuclear weapons matters.

g. SECNAVINST 5211.5C. (Subject: Personal privacy and rights of individuals regarding records pertaining to themselves) Provides guidance on the release of information pertaining to names and addresses of personnel attached to sensitive, overseas or routinely deployable units, and other issues.

h. SECNAVINST 5700.9D. (Subject: Congressional Notification and Public Announcement Procedures concerning Base Closures, Contract Awards and other Actions having Significant Economic/Personnel Impact) Guidance on Navy and Marine Corps actions which may have significant economic or personnel impact.

i. Manual of Courts-Martial, United States, 1984. Provides policy on release of information pertaining to courts-martial.

j. Manual of the Judge Advocate General. Provides policy on the release of information on accused persons.

k. DoD Instruction 1325.4 of 7 OCT 68 (NOTAL). (Subject: Treatment of Military Prisoners and Administration of Military Correction Facilities) Provides broad DoD policy.

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l. **SECNAVINST 1640.9A**. (Subject: Department of the Navy Corrections Manual) Navy and Marine Corps policy and procedures.

m. **SECNAVINST 5370.2H**. (Subject: Standards of Conduct and Government Ethics) Promulgates standards of conduct for the Department of the Navy. Discusses conflicts of interest and matters of propriety.

n. **DoD Directive 1325.6 of 12 SEP 69 (NOTAL)**. (Subject: Guidelines for Handling Dissent and Protest Activities among Members of the Armed Forces) Basic policy.

o. **DoD Directive 1344.10 of 25 SEP 86 (NOTAL)**. (Subject: Political Activities by Members of the Armed Forces) Policy.

p. **DoD Instruction 5435.2 of 25 APR 75 (NOTAL)**. (Subject: Delegation of Authority to Approve Travel in and Use of Military Carriers for Public Affairs Purposes). Basic DoD policy on public affairs embarkations in ships and aircraft.

q. **DoD Regulation 4515-13R of 1 JAN 80 (NOTAL)**. (Subject: Air Transportation Eligibility) Implemented by OPNAVINST 4630.25B, provides basic DoD air transport policy.

r. **OPNAVINST 3710.7L (NOTAL)**. (Subject: Promulgation of NATOPS, General Flight and Operating Instructions) Establishes basic requirements for embarkation in aircraft and establishes categories of passengers.

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0501 SECURITY REVIEW

a. General. Information controlled under federal statutes and agency regulations, such as classified material and sensitive unclassified military technology, shall not be released. References (a) through (d) are germane. Nevertheless, commanders and commanding officers shall not deny public affairs officers (PAOs) access to such information solely because of their media relations responsibilities. See Article 0104b(4)(b) and 0104b(4)(c). It is important that PAOs have the appropriate security clearances and access to understand important operational and administrative matters that affect the command. For most activities, that entails routine access to classified and sensitive unclassified military technology information. Without access to necessary operational information, it is not possible to prepare material for timely public release or plan appropriate contingency actions. Delays in disseminating unclassified information bring about needless speculation, erroneous coverage and lack of understanding of the Navy and Marine Corps mission and objectives. Delaying or withholding information complicates Navy-Marine Corps relations with the public and jeopardizes public support of successful military missions.

b. Intra-Command Security Review. Each command or activity will review material prepared for public release to ensure that it reveals no classified information or sensitive unclassified military technology. The PAO will submit material for security review after facts have been obtained from sources (officials, agencies, files), coordinated with concerned departments and agencies and compiled into the desired format (e.g., press release, speech or response to inquiry). (That is, sources of information within the command will apprise the PAO of pertinent statutory or security constraints as information is furnished but will not withhold information necessary to the PAO's understanding of the subject matter and related issues. Security review follows final compilation of the information.) As discussed further in this chapter, certain categories of information require security review by the Assistant Secretary of Defense (Public Affairs) [ASD(PA)]. Nevertheless, this does not relieve a lower echelon office or command of its responsibility to review material and remove, to the limit of its capability, all classified and sensitive unclassified information.

c. Requirement for ASD (PA) Security Review. Certain categories of information require rigid control to prevent collection by hostile intelligence organizations. Rigid control is required regardless of whether the information appears to the office of origin to be unclassified and releasable. Security review at the ASD(PA) level is required in the following categories of information:

(1) **"Exhibit 12A" Information.** Information pertaining to any of the following subjects is referred to as "Exhibit 12A" information and requires ASD (PA) level security and policy review, even if considered to be unclassified by the office or command proposing its release. "Exhibit 12A" information is:

(a) Information originated or proposed for publication or release at the Seat of Government, or

(b) Information which meets any of the following criteria (submit if in doubt):

1. Is or has the potential to become an item of national or international interest or has foreign policy or foreign relations implications;

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2. Concerns high level military, DoD or U. S. government policy;

3. Concerns subjects of potential controversy among DoD components (i.e., the military services) or with other federal agencies; or

4. Concerns any of the following:

a. New weapons, weapons systems, significant modifications or improvements to existing weapons or weapons systems, equipment or techniques, or the introduction of a new weapons system for the first time into a different operating theater;

b. Military operations, operations security, potential operations and significant exercises;

c. National Command Authority and command posts;

d. Military applications in space; nuclear weapons, including nuclear weapons effects research; chemical warfare; defensive biological and toxin research; and high energy lasers and particle beam technology;

e. Material, including that submitted by Defense contractors, involving militarily critical technology;

f. Communications security, signals intelligence and computer security;

g. Other subject areas that may be designated by the Office of the Secretary of Defense or higher authority.

Commands will submit all information related to subject areas listed above through the chain of command to the Office of the Chief of Naval Operations (Assistant for Naval Investigative Matters and Security) (OP-09N), or, on Marine Corps matters, the Commandant of the Marine Corps (Code INTC-Counterintelligence). When information is intended for the general public, internal audience or news media, OP-09N and Code INTC will coordinate with CHINFO or DIRPA as appropriate.

(2) Naval Nuclear Propulsion Information. The disclosure of any information pertaining to naval nuclear propulsion matters is made on a strict need-to-know basis pursuant to agency regulations and federal statutes. For information which is to be made public, special care is required to ensure that it contains nothing prohibited from public dissemination for security reasons and that it contains the proper perspective recognizing overall public sensitivity to nuclear issues. To accomplish this requires review by personnel specially trained in the technical and policy aspects of naval nuclear propulsion matters. Accordingly, as established in reference (e), the Director, Naval Nuclear Propulsion Program (OP-00N), is responsible for overseeing all public affairs related to naval nuclear propulsion. This includes ensuring that responses to the public, news media and any foreign audience are properly formulated, receive proper security review and are correctly handled in both routine and emergent situations. Specific guidance is provided below:

(a) CHINFO and OP-00N shall be kept informed via the chain of any public affairs matter related to naval nuclear propulsion. This includes the change of homeport of any nuclear-powered ship and the associated announcement of the homeport shift. Matters which involve general aspects of the acceptance of nuclear-powered ships and matters seemingly related only indirectly to nuclear power shall also be reported. Proposed releases to news media, individuals or non-Navy organizations must be submitted to CHINFO for further review and clearance by OP-00N and other cognizant officials as necessary.

(b) In the event of a nuclear or radiological emergency involving a nuclear propulsion plant or support facility, OP-00N will exercise principal responsibility for public affairs regarding the emergency. This includes establishing and maintaining direct communication with the ship or activity involved, the appropriate fleet and type commander and area or regional area coordinator, as well as liaison with CHINFO.

(c) OP-00N must concur in all statements and responses to press inquiries prior to their release if they concern or are related to local naval nuclear propulsion program work at shipyards and nuclear-powered ship support facilities not otherwise requiring clearance by the CHINFO.

d. Submission Requirements. Material submitted for security or policy review by higher authority [OP-09N (Navy) or Code INTC (Marine Corps)] shall conform to the following:

(1) Material shall be typewritten, double-spaced, pages numbered and submitted (original and three copies) under DD Form 1910. When submitting by message, number paragraphs.

(2) When photographs must be reviewed, submit four prints. Slides need not be printed, and films or videotapes should not be reproduced.

(3) Allow sufficient time for review in advance of the proposed release date, normally four weeks exclusive of mailing. For material over 3,000 words, review time will depend on subject matter.

(4) Submit four copies of speeches under Form 1910. The speaker, his deputy or chief of staff must initial the first page of the original copy or, if submitted by message, state that the speaker personally approved the text. See also Article 0308 (Speeches).

(5) When material is being proposed for release to the news media, but is not being sent directly to CHINFO or DIRPA, a copy of the material will be provided to CHINFO or DIRPA; include CHINFO or DIRPA as information addressees on all message submissions. In the case of letter submissions or intra-office copies of material under review, the proposed release will carry the following advisory in bold letters:

**NOT RELEASABLE UNTIL SECURITY AND POLICY
REVIEW COMPLETED AND RELEASE APPROVED AS
PER SECNAVINST 5720.44A.**

e. "Personal" Correspondence. Correspondence which expresses the personal views of the author that is not written in an official capacity (e.g., letters to

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the editor) is not necessarily exempt from security review. Some "personal" correspondence must be submitted for security review. The review requirement is based solely on the content of the material and not to whom it is addressed. See Article 0310e (Writing for Commercial Publication). Individuals writing in a private capacity may submit their material for a courtesy review and should be encouraged to do so in cases of doubt.

0502 SECURITY REVIEW OF NUCLEAR WEAPONS INFORMATION

a. **General.** Information pertaining to nuclear weapons matters must receive security review at the ASD (PA)-level before public release. Because national security can be compromised when elements of unclassified information are combined with available or previously released information, all nuclear weapons information will be afforded adequate security protection.

b. **Releasing Authority.** Authority to release information on nuclear weapons matters rests with ASD(PA). Any command proposing to initiate a release relating to nuclear weapons matters will forward the proposal through the chain to OP-09N as per Article 0501 (Security Review). News media representatives will be referred to CHINFO. Freedom of Information Act requests will be forwarded to the Assistant Vice Chief of Naval Operations (OP-09B). Coordination points within the Department of the Navy are as follows:

TOPICS:

- (a) Nuclear weapons safety, inspections, accidents or incidents
- (b) Physical security of nuclear weapons
- (c) Research and development of nuclear weapons
- (d) Nuclear weapons warfare procedures
- (e) Nuclear weapons operations, any politico-military implications and "confirm/deny" policy

COORDINATION POINTS:

Deputy Chief of Naval Operations (DCNO) (Logistics) (OP-04)

CNO [Assistant for Naval Investigative Matters and Security (OP-09N)]

CNO [Director, Research Development and Acquisition (OP-098)]

CNO [Director of Naval Warfare (OP-095)]

DCNO [Plans, Policy and Operations (OP-06)]

c. **General Response to Nuclear Weapons Inquiries.** Per reference (f), the single, acceptable response to the question of whether or not nuclear weapons actually are located within an installation, aboard a ship or within a particular weapons system is:

"It is U. S. policy neither to confirm nor deny the presence or absence of nuclear weapons at a particular location or on a particular platform."

The nuclear capability of certain ships, systems or platforms may be confirmed only when such disclosure is permitted by instructions or other guidance pertaining to the particular ship, system or platform. The only exception to this policy of declining to confirm the presence of nuclear weapons is explained in Article 0810 (Basic Policy on Nuclear Weapons Accidents and Incidents).

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**0503 SECURITY REVIEW OF INFORMATION REVEALING A
MILITARILY CRITICAL TECHNOLOGY**

a. General. The Militarily Critical Technologies List (MCTL) is a compendium of key Defense Department concerns regarding the transfer of technologies to foreign nationals. The Arms Export Control Act (10 U.S.C., Section 140C) allows the withholding of certain unclassified technical information, the acquisition of which could significantly enhance the military capability of a potential adversary to the detriment of U. S. national security. A critical technology--either dual-use or purely military in its application--contributes to the superior characteristics (performance, reliability, maintainability or cost) of current military systems, possesses the potential of enhancing advanced weapons systems or relates to specific industrial or military deficiencies of a potential adversary. The list is not a comprehensive listing of emerging technologies but, rather, a document which identifies those technologies which could significantly enhance another nation's military capability. Because public disclosure is tantamount to uncontrolled foreign access, critical elements listed in the Militarily Critical Technologies List must be properly reviewed prior to public release. Judgment must be used, however, to ensure that information relating to non-critical technologies is not unduly restricted. For example, technical information should not be categorized as an element of a militarily critical technology, simply because it loosely corresponds to a technology in the list. When in doubt, consultation with the Assistant for Naval Investigative Matters and Security (OP-09N) or the cognizant clearance authority is required.

b. Information with Application in Outer Space. Controls are also placed on the public disclosure or release of information or technical data with applications in outer space. Information proposed for release in this category will be forwarded to OP-09N for review prior to its release.

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0504 POLICY REVIEW

a. General. As a safeguard against potentially adverse impact upon the conduct of government, information is cleared for release only after it is determined that it is consistent with established national, DoD and DoN policies and programs. Material will not fail policy review solely because its release might reveal administrative error, inefficiency or cause embarrassment. A command submitting material to higher authority for policy review will first ensure that it does not contain information known by the originator to be in error or in conflict with established policy. Numerous policies from various levels in the chain of command may be pertinent. As with security review, all material proposed for release to the public will undergo policy review, at minimum by the local command. Reference (m) addresses prepublication review of official and certain non-official writings by DON personnel.

b. Basic Procedural Guidance. In general, commands will submit material (as prescribed below) for policy review at ASD (PA) if it concerns or affects the plans, policies, programs or operations of the U. S. Government or DoD (this includes information prepared by DoD personnel in an official and, in some cases, a private capacity); or concerns any topic listed in Exhibit 12A (see Article 0501c).

(1) Unless otherwise specified in this chapter, commands will submit material requiring ASD (PA)-level policy review to Assistant Secretary of Defense (Public Affairs) [ASD(PA)] via the Special Assistant for Naval Investigative Matters and Security (OP-09N) or the Commandant of the Marine Corps (Code INTC--Counterintelligence) for policy review and clearance prior to release. (CHINFO and DIRPA act not as policy review authorities but rather as final public affairs coordination points to ensure that the information is properly prepared and released).

(R)

(2) Include CHINFO or DIRPA as information addressees on message submissions. In the case of letter submissions or intra-office copies of material under review, each page of the proposed release will carry the following advisory in bold letters:

NOT RELEASABLE UNTIL SECURITY AND POLICY
REVIEW COMPLETED AND RELEASE APPROVED AS
PER SECNAVINST 5720.44A.

(3) For information not included in Exhibit 12A and not otherwise necessitating a ASD (PA)-level policy review, individual commands shall conduct the policy review on matters under their cognizance and within their authority and capability to evaluate or forward the material to the appropriate command for review.

c. Resolving Procedural Conflicts. When the submission or other requirements for policy review conflict with those for security review, the requirements for security review take precedence and will be followed.

d. "Personal" Correspondence. Correspondence which expresses the personal views of the author that is not written in an official capacity (e.g., letters to the editor) is not necessarily exempt from policy review. The review requirement is

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based on the content of the material and not to whom it is addressed. See Article 0310e (Writing For Commercial Publication). Individuals submitting personal correspondence should be encouraged to submit material for policy review in doubtful cases.

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0505 SECURITY AND POLICY REVIEW OF TEST AND EVALUATION INFORMATION

a. **General.** All Department of the Navy test and evaluation information or data proposed for release and which relate to subject areas listed in Exhibit 12A (Article 0501c) will be forwarded to ASD(PA) via OP-09N or, for Marine Corps matters, to Code INTC who will coordinate the review of the material with CHINFO, DIRPA, OP-098 and other Navy or HQ Marine Corps officials having an interest in the data. As appropriate, OP-098 will coordinate with ASN (RE&S). When a proposed release concerns test and evaluation data or information but does not require release by ASD(PA), the release will be submitted for approval to CNO or CMC.

b. **Test and Evaluation Documents in Public Domain.** No attempt should be made to place controls on existing documents which previously have been formally released or are already in the public domain.

c. **Clearance Authority for Releasing In-depth Test Data.** When deemed appropriate and following coordination with OP-098, the Service Information Chief may coordinate the release of more detailed information to media by designated spokespersons.

d. **Congressional Notification Requirement.** The Service Information Chiefs will notify the Chief of Legislative Affairs in advance of any proposed release to advise interested members of Congress prior to public release.

e. **Essential Elements of a Test and Evaluation Information Release.** When information related to test and evaluation is prepared for release, incorporate the following elements:

(1) Statement that preliminary test data is often inconclusive and that care must be used in reviewing the data to prevent misinterpretation of potentially misleading information;

(2) Unclassified description of the testing procedure and an evaluation of the significance of the data;

(3) General summary (rather than specific details) of the test data;

(4) Statement indicating whether the testing was developmental or operational and a definition emphasizing the distinction between the two.

f. **Release of Developmental Test and Evaluation Data.** The release of developmental test and evaluation (DT&E) data is not encouraged because of the potential to cause premature and possibly erroneous assessments of the system being tested. Release of information at the developmental stage also increases the likelihood that classified performance data will be divulged. If OP-098 and cognizant commands and offices decide to release DT&E data, the release shall include only a general description of the testing environment (e.g., conditions during testing) to assist the public in putting test results in proper perspective. Media requests to observe developmental test and evaluations shall be forwarded to CHINFO or, in the case of Marine developmental testing, DIRPA. Requests by members of Congress or their staffs to observe such tests shall be submitted to the

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Chief of Legislative Affairs for coordination with the commander of the cognizant systems command and OP-098. The release of any DT&E data will be coordinated in advance with DIRPA if it affects the Marine Corps or concerns a Marine Corps system.

g. Developmental Data on Missile Test Firings. After a ballistic or cruise missile test firing, the Navy acknowledges to the news media that the test has occurred. Information consist of a pro forma press release which is coordinated prior to the test firing with the appropriate sponsor of the test firing in the office of the CNO and with CHINFO. The press release contains appropriate phrases which may be struck from the press release should the missile fail to perform as planned. The release is prepositioned and closely coordinated to allow dissemination immediately following the actual test. It is intended to acknowledge the obvious--a missile test firing and the general results--and, therefore, will not contain specific technical data.

h. Operational Evaluation (OPEVAL) Results. To preserve the independence and objectivity of the Commander, Operational Test and Evaluation Force (COMOPTEVFOR), media requests to observe operational testing and evaluations will not normally be approved. No data from such tests and evaluations will be released until COMOPTEVFOR has formally issued an interim or final report. Unless the system tested falls into a category requiring release by a higher authority [e.g., ASD(PA) for Exhibit 12A systems), releasing authority for operational evaluations is CNO (who coordinates with with CMC for matters of Marine Corps interest). A copy of any operational evaluation results and any associated releases will be provided DIRPA if the test is in any way connected with, or may have impact on, the Marine Corps.

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0506 INFORMATION SUBJECT TO PROPRIETARY PROTECTION

a. **General.** The Department of the Navy is responsible for protecting information that is derived from proprietary data of a private party in which the Department has either "limited rights" or "restricted rights." See Appendix A (Definitions). Such information must be withheld from public release.

b. **Copyrighted Information.** The written permission of the copyright holder must be obtained before copyrighted material may be used. This includes reproduction by duplication machines and dissemination in that form.

c. **Distribution of Press Clips.** In order to keep commanders and other key officials of a command informed of news developments which relate to or may have an impact upon their mission, PAOs may select, reproduce and distribute press clips and summaries of broadcasts for official review. Such clips and summaries must be distributed with an advisory which warns against any personal use of the service. A sample advisory is provided below:

"These press clips and broadcast summaries are prepared by the command public affairs office to inform key personnel of news items of interest to them in their official capacities. They are not intended to substitute for newspapers, periodicals and news and public affairs programming as a means of keeping informed about the meaning and impact of news developments. Selection or distribution of articles does not imply endorsement. Further reproduction for private use or gain is subject to original copyright restrictions."

d. **Copyrighting of Work Performed as an Official Duty.** A piece of writing, musical composition, computer program or other rendering is not entitled to copyright protection if it is performed by Navy or Marine Corps members or civilian employees as part of official duties. The work is considered in the public domain. It may be copied or distributed by anyone, subject to security and policy review and other applicable requirements. If a potential publisher asks the author for an assignment of the copyright in an official work, the author should inform the publisher that no copyright is available but the publisher may elect to publish the work as an uncopyrightable work. It may be appropriate to call the publisher's attention to 17 USC 403. This law provides that any copyright notice which the publisher affixes to a publication containing one or more official government works must show which works are copyrighted and which are official works in the public domain.

e. **Reprinting of Copyrighted Material.** In most cases, command requests for copyrighted news media material can be readily fulfilled by copying the video or article directly and handling the reprint as a press clip. When doing so, the command will label the copy as described in subparagraph c above and ensure its use is restricted to informing key command personnel of news items of interest to them in their official capacities. Any use beyond providing information to key command personnel in their official capacities is subject to original copyright restrictions. Commands desiring reprints (or video copies) of copyrighted material appearing in general circulation, national mass media will submit their requests with justification to CHINFO or DIRPA. Because such procurements are costly and most command needs can be readily met by making and handling original material as press clips, such procurement requests are not normally approved. CHINFO or DIRPA will determine whether the request for copies or reprints is a valid

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requirement, and, if so, will authorize the individual command to pursue the reprint (video copy, etc.) as a procurement action. In the case of video materials, specific procedures outlined in visual information governing directives may apply. In all cases, procurement documents will include a detailed description of how the reprint or copy will be used (to whom it will be distributed, by whom, in what geographical area, for what duration, etc.). Local commanders can authorize procurement of reprints of local or regional material provided they determine that the reprint would fulfill a valid requirement that would not be satisfied by handling the material as a press clip. Requests for authorization to reprint copyrighted materials in narrow-focus media should be submitted to the commander having cognizance over the subject matter involved. In this category would fall requests for copyrighted articles in a medical journal (Commander, Naval Medical Command, would be the cognizant officer), legal journal (Office of the Judge Advocate General), certain scientific studies (Office of Naval Research), etc. The Commander, Navy Recruiting Command, and the Deputy Chief of Staff for Manpower, Commandant of the Marine Corps, have authority to contract for reprints of material deemed of value to the recruiting effort. When in doubt, commands shall forward requests for reprints to CHINFO or DIRPA who will coordinate the request with the appropriate office. CHINFO or DIRPA may delegate this authority.

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**0507 RELEASE OF INFORMATION THAT COULD ENDANGER
PERSONNEL**

a. General. A releasing authority must consider the security threat that may be posed by disclosing certain information concerning members and families of members assigned to units that are sensitive, routinely deployable or stationed in a foreign country.

(1) The release of names or duty addresses of such members can constitute a clearly unwarranted invasion of personal privacy, because it tends to reveal their degree of involvement in military actions which support national policy and servicemembers' presence or absence from households. Release of such information aids the targeting of servicemembers and families by terrorists and others opposed to implementation of national policy by the employment of military units.

(2) Only an extraordinary public interest in disclosure can outweigh the need and responsibility of the Department of Defense and Department of the Navy to protect the tranquility and safety of members and families who have been subjected repeatedly to harassment, threats and physical injury.

(3) This same concern applies to the photographing or videotaping of personnel who may be serving in a particular overseas area or engaged in certain duties or operations which may heighten the risk of harassment or personal injury. For example, while news media embarked in ships or accompanying Marine units are customarily granted video and photographic opportunities involving individual sailors and Marines, the nature of ongoing operations may dictate more stringent precautionary measures to assure personal safety. One example of such measures is the imposition of a ground rule that, if individuals are photographed or videotaped, they not be identified by name, hometown or current residence.

b. Units Covered by this Policy

(1) **Those overseas**, specifically those located outside the 50 states, the District of Columbia, Commonwealth of Puerto Rico, Guam, U. S. Virgin Islands and American Samoa.

(2) **Routinely deployable units.** Those ships and units forming the core of the operating forces which normally deploy from home port of permanent station on a periodic basis to meet operational requirements or participate in scheduled exercises. For the Marine Corps, this includes all Fleet Marine Forces. For the Navy, this includes routinely deployable ships, aviation squadrons, operational staffs and deployable detachments (e.g., Naval Inshore Undersea Warfare Unit detachments). It does not include ships undergoing yard work or units with the primary mission of support or training (e.g., yard craft).

(3) **Units engaged in sensitive operations.** Those primarily involved in the conduct of covert, clandestine or classified missions, including units primarily involved in collecting, handling, disposing or storing of classified information and materials and those engaged in training or advising foreign personnel. Examples include SEAL teams, security group commands, weapons stations and communication stations.

c. Requests on Specifically Named Individuals. If news media representatives or the public request the duty address or telephone number of a

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specifically named member attached to a sensitive, routinely deployable or overseas unit as defined above, the underlying concerns discussed in subparagraph a above should be weighed along with other pertinent considerations (e.g., importance of public interest, prominence of individual). See also Article 0708 (Balancing Test Criteria).

d. Release Authority. All requests for information falling into the category discussed above must be forwarded via the chain to the Chief of Naval Operations (OP-09B30) or the Commandant of the Marine Corps (MPI-60), including requests for this type of information by members of Congress. See also paragraph 7 of reference (g). Disclosure of addresses of naval civilian personnel are governed by the Office of Personnel Management regulations. For a more complete discussion on public affairs initiatives and responses regarding terrorism, see Chapter Eight (Contingencies).

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0508 MATTERS INVOLVING CONTRACT NEGOTIATION

a. General. The Federal Acquisition Regulation is the governing directive for all contracting within the Department of the Navy. The PAO's role with regard to contracting is to satisfy the public's legitimate interest in the sound business practices being employed by the Navy and Marine Corps while enabling the procurement process to proceed free from undue influence. The integrity of this process is preserved largely by ensuring that no contractor is afforded a competitive advantage by obtaining information or material not made available to all potential bidders.

b. Basic Guidance. The following principles apply to all contracting situations.

(1) In all cases, PAOs shall consult the cognizant contracting officer to coordinate any release of information regarding a contract.

(2) The releasable and openly discussed cost of a major facility, system or major system component over \$200,000 appears as a line item in the President's budget. This figure, known as the appropriation cost, includes not only the best estimate of actual item cost, but it also includes costs to administer the contract, inspection and contingency costs of various kinds and other charges. The official government estimate of cost of a specific facility, system or major system component--derived from a design, architectural or engineering firm assigned a given project--is not releasable to the public. This figure is considered privileged to protect the procurement process and ensure the government obtains the best quality work or service for the least possible price. The following comment can be made if queried by the public or the press:

"The official government estimate of cost of a (system, building, service, etc.) is developed to assist the federal government in budget preparation for the Congress only. If this official estimate were to be disclosed publicly, it may impact adversely on the procurement process by artificially driving the actual cost of the project higher than necessary in today's market. Keeping the official government estimate of the project privileged is part of the Department of the Navy's overall effort minimize defense costs."

(3) The best source of award information on all federal government (including Navy and Marine Corps) contracts is the Commerce Business Daily (CBD), and inquirers should be freely referred to that publication. The CBD announces invitation for bids (IFBs) and requests for proposals (RFPs). It also announces intent to award sole-source contracts prior to initiating negotiations. IFB, RFP and sole-source announcements in the CBD are referred to as synopses. There may be an urgent and compelling need to waive publication of a synopsis in the CBD. For example, a natural disaster renders a system on base harmful to the environment and poses some hazard to personnel. In such rare cases, CBD publication would be waived by the contracting officer.

(4) Contracts which are Cost Plus Award Fee involve monetary awards paid to a firm when it achieves certain quality milestones within specified time

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periods. Information released on Cost Plus Award Fee contracts should include the reasoning behind and benefits expected from this business management practice.

(5) As an innovative contracting technique, the Department of the Navy is considering third party financing for substantial construction/energy projects which require a relatively significant capital expenditure. Under third party financing, a contractor may build a facility on private land (or government-owned land, if available and offered by the government). This practice is being used to finance construction of correctional custody centers, child care centers and other base support facilities. When such contracts do become matters of public interest, the benefits of third party financing to the taxpayer should be discussed.

(6) Public affairs personnel should have a clear understanding of the difference between bid award and bid opening when their commands do a significant amount of contract work. When bids on a particular contract are opened and the low bidder is determined, this firm is not necessarily the winning competitor. An evaluation of the leading bidder must first be conducted to determine whether the firm is responsible to accomplish the work and responsive to the requirement according to the terms of the contract.

(7) If a bid protest ensues, no information will be released which might be used in support of claims against the government. However, in unusual and compelling circumstances, the head of the contracting activity can still award the contract despite the bid protest. Routine information on contract awarding can be publicly released in such cases with the concurrence of the head of the contracting office.

(8) In many cases, design proposals for Navy and Marine Corps contracts are costly, and certain design firms must arrange financing just to make a proposal. Should a PAO or other official inadvertently make statements which compromise information or otherwise unduly influence the contracting process, competing firms could suffer damage, and the government may face a law suit to recover bid preparation costs.

c. Releasable Information. Subject to the concurrence of the cognizant contracting officer, releasable contract information includes:

(1) For negotiated contracts solicited as a Request for Proposal (RFP):

(a) Prior to the contract award, a statement of the anticipated work involved, the purpose of the contract and the reason the negotiated method was used;

(b) After negotiations are final and all intra-Service approvals are received (i.e., security clearance of firm employees, equal opportunity or other business clearances, etc.), the firm to which the contract will be awarded and the dollar value of the contract;

(c) After the contract is awarded, official announcement of the contract awardee and the dollar value.

(2) For fixed-price, Invitation for Bid contracts:

(a) Prior to bid opening, a statement of the anticipated work involved and the bid opening date;

(b) After the bid opening, the names of the bidders and their bid amounts;

(c) After the contract has been awarded, the firm to which the contract has been awarded, the dollar value of the contract and the other competitors and their bids.

d. Congressional Notification. Public release of the contract award is normally embargoed as a courtesy to the senators and representatives until after they are notified. The Chief of Legislative Affairs telephones affected Congressional Members daily when a Navy or Marine Corps contract valued at \$3 million or more is awarded in a senator's state or representative's district. Contract award notifications are embargoed until 1600 daily to avoid announcement during the conduct of business in the stock market. See also reference (h).

e. Release of Information by Contractors

(1) Unclassified Contract Information. Companies or institutions with unclassified Navy or Marine Corps contracts may release unclassified and non-sensitive information about them unless the contract states otherwise. The following may be released without further DoD approval:

(a) A statement that the contract, letter of intent or supplement agreement has been received.

(b) The type of contract (such as proposal for a new electronic system, etc.) if this information is not limited by the terms of the contract.

(c) Information of public or professional interest about the work being done, if this information is not limited by the terms of the contract.

(d) Information previously approved for release.

(2) Classified Contract Information. Companies or institutions with classified Navy or Marine Corps contracts usually prepare and release the initial announcement of a contract award involving a new Navy or Marine Corps system with the concurrence of the Department of Defense. This announcement is regulated by reference (c). This manual is part of an agreement between the contract organization and DoD which enables the organization to receive a classified contract and the information necessary to fulfill it. Reference (c) also prohibits the contractor from releasing information that pertains to classified contracts or projects until the release is approved by the appropriate DoD official. Usually, such releases are approved by the Directorate for Security Review, Office of the Secretary of Defense, although the contract may stipulate that releases be routed via certain Navy or Marine Corps offices for concurrence.

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0509 MILITARY JUSTICE MATTERS

a. General. Serious charges are newsworthy, especially those of interest to the public. These can range widely from military aircraft violations to nonmilitary offenses such as larceny or assault allegedly committed by Navy or Marine Corps personnel in a community. Unauthorized disclosure of details on a matter that has been referred to a court martial or is under criminal investigation may result in a violation of the rights of the accused, the hampering of the government's case, undue influence on the litigation process or violation of Department of Justice (DOJ) guidelines on trial publicity. Consult the staff or command judge advocate and review the U. S. Attorney's Manual, Title 1, Chapter Five, for DOJ guidelines.

b. Specific Requirements regarding Accused Persons. The following guidance applies to general and special courts martial and the release of information concerning accused persons.

(1) The cognizant PAO will consult in advance with the military judge and counsels as well as the staff or command judge advocates of the concerned commands if media interest is anticipated.

(2) News media representatives, as members of the public, may attend open sessions of Navy or Marine Corps courts.

(3) For comprehensive policy on media access to courts-martial, see Rule for Courts-Martial, Section 806(c) of reference (i).

(4) News releases and press briefings should convey that military and civil court proceedings are similar in many ways, including the presumption of innocence.

(5) For policy regarding the release of information on a person under investigation, see Article 0510 (Matters Related to Investigations). Extreme care must be exercised in releasing information concerning an accused and any pertinent disciplinary proceedings. Consult the staff or command judge advocate and Article 0134 of reference (j) regarding releasable information on accused persons, the circumstances under which spectators may be excluded from courts-martial sessions, broadcast restrictions, gaining copies of trial records and documents, public courtroom access and related matters.

(6) No information concerning an accused shall be released without prior reference to trial and defense counsel and references (i) and (j). Requests for interview of an accused person shall be referred to the defense counsel for response. In general, subject to the guidance contained in section 0134 of reference (i), the following information can be released on accused persons: (D) (A)

(a) Names, rates and hometowns of persons charged with crimes;

(b) Charges and specifications;

(c) Sentence, if adjudged; (R)

(d) Type of discharge (if any) from the Navy or Marine Corps and whether it was executed, suspended or remitted (type of discharge is not releasable if it is the result of nonjudicial punishment or administrative action);

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(e) Confinement location, duration, date of commencement and release;

(f) Previous convictions or absence of them, if and only if the accused is found guilty in the present case;

(g) Acquittal, emphasized proportionate to the emphasis applied to previously published accusations.

R) **c. Courts of Inquiry and other Administrative Fact-finding Bodies.**

Generally, the same procedures regarding the release of information apply to courts of inquiry and other administrative bodies, such as nonjudicial punishment under Article 15, UCMJ, shall not be released by the PAO in response to a request or on their own initiative. Release is appropriate when the facts leading to the action are particularly newsworthy or the case involves a senior official abusing the public trust through office-related misconduct, such as embezzlement. Reference (j) contains specific provisions regarding when spectators may be excluded from hearings and restrictions applying to the broadcast of hearing proceedings. No information concerning courts of inquiry or administrative fact-finding bodies shall be released without prior reference to references (g), (i) and (j).

A) **d. Visual Media Coverage of Accused Persons.** No photography, video or other visual coverage of an accused person is authorized until the individual is advised of rights by legal counsel. The decision to allow visual coverage is entirely up to the accused. Should the individual ask not to be photographed, the PAO will so inform the news media. In honor of the accused's decision, the PAO is expected to take reasonable steps to avoid photography or video coverage short of barring news media from areas normally accessible to the public. Any visual coverage of a prisoner will be rendered in a natural attitude. Eyes should not be blackened out and full-face close-ups should be avoided. Such stipulations should be discussed first with the prisoner, then with news media representatives as groundrules prior to visual coverage.

e. Information on Military Prisoners. Judgement and discretion must be used in releasing information concerning individual military prisoners. The following is basic guidance. For further information and policy, consult references (k) and (l).

R) (1) Releases about brig prisoner escapes, unusual incidents or disturbances should be based on the need for satisfactory relations with the public at large, nearby communities and news media. Information indicated on a current DD Form 553 (Absentee Wanted by the Armed Forces) is normally information releasable to the public; however, Article 0134(6) of reference (j) should be consulted.

R) (2) Personal interviews and telephone conversations between prisoners and media representatives are prohibited. Written communication is permitted subject to reference (k).

(3) See also paragraph 0509b(5) above.

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f. Navy/Marine Corps Disciplinary Problems. Authority to release information on mutiny and seditious acts by naval personnel is vested in the Secretary of the Navy. Requests for information pertaining to such matters should be forwarded via the chain to CHINFO or DIRPA. Release of information pertaining to national security cases is approved by the convening authority per Article 0149 of reference (j).

g. Dissent. Dissident and protest activities are rare in the armed forces. Such activities are launched to call public attention to alleged civil rights violations, rally support for a political cause or for other purposes. Consult references (n) and (o). The following are broad guidelines:

(1) Problem resolution must be kept at the lowest competent level, because dissident activities are usually sparked by a situation at a single base or community.

(2) The command should form a task force of people-oriented base officials to handle the unique situations that will arise. The task force could consist of: the executive officer, chaplain, PAO, staff judge advocate, security officer, senior medical officer, ombudsmen and command master chief or sergeant major.

h. Civil Litigation and Claims. PAOs and others authorized to make official statements shall refrain from the release of information on the procedural aspects or the merits of litigation or claims pending before Federal courts or any other adjudicative body. As per 28 U. S. C., Section 519, the U. S. Attorney General is charged with the responsibility of supervising litigation involving federal agencies. As a result, the findings and recommendations of the Department of the Navy may or may not become the final government position in a law suit. Accordingly, any inquiry as to the Department of Defense, Navy, Marine Corps or U. S. government position in a matter in litigation should be referred to the DOJ or the cognizant United States Attorney for response. In practice, an inquiry is passed initially to CHINFO or DIRPA who will make the referral, through JAG, to the Justice Department or cognizant United States Attorney. See also Article 0511d (Information supporting Possible Claims against the Government).

i. Nonjudicial Punishment. Because information pertaining to nonjudicial punishment (NJP) is not usually released in response to a request made under the Freedom of Information Act (FOIA), it is not usually released to news media. Nevertheless, PAOs should apply the usual balancing test described in Articles 0707 (Balancing of Interests and) 0708 (Balancing Test Criteria). The test may reveal the unusual case where NJP information should be disclosed (e.g., the facts leading to the NJP are particularly newsworthy or the case involves a senior official abusing the public trust through misconduct on duty). It should be noted that commanding officers may announce the disposition of cases in accordance with Article 0107 of reference (e). Because this a proper exercise of command authority rather than a release of information under FOIA, such an announcement is not a basis for disclosure in response to an FOIA request or news media inquiry. In all situations involving a request for NJP information, the staff or command judge advocate should be consulted. For guidance on the release of NJP records, consult Article 1331 of reference (j).

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0510 MATTERS RELATED TO INVESTIGATIONS

a. **General.** As a general rule, the substance, details or preliminary findings of ongoing investigations will not be publicly disclosed until the investigation is certified as complete and disclosure is authorized by proper authority. Even after an investigation is completed, not all findings may be determined by competent authority to be releasable. Therefore, public affairs practitioners must ensure that statements to the public and the media prior to the conclusion of an investigation do not imply that all findings will be disclosed.

b. **Factors Affecting Release.** Numerous organizational policies and statutory requirements may influence the decision to release a completed investigation or withhold all or portions thereof from the public. Generally, safety and occupational safety and health investigations shall be treated as privileged information (or FOR OFFICIAL USE ONLY) and may be exempt from public disclosure. Revealing the content of safety investigations, formed in part by the comments of sources who have been promised confidentiality in return for candid testimony, would violate the Navy's agreement with such sources and eventually undermine the effectiveness of the safety investigation program. Disclosure of investigatory information is a more complex matter. In the case of law enforcement investigations, their premature release may also compromise witnesses, weaken the case of either defense or prosecution, reveal investigatory methods or otherwise unduly influence judicial proceedings. Nevertheless, the Navy is open to public scrutiny. However, not all details of a particular investigation need be made public to satisfy the public's legitimate interest in a particular occurrence.

c. **Release Authorities.** Commands requested to provide information from investigations shall gain clearance prior to the release of information, through the chain of command, from:

(1) The Assistant for Naval Investigative Matters and Security (OP-09N) for Naval Investigative Service or other law enforcement investigations;

(2) The Commander, Naval Safety Center, for Mishap Investigation Reports and other safety investigations;

(3) The Assistant Judge Advocate General (Military Law) for any request for release outside the Department of the Navy of the following: JAG Manual Investigations, Court-Martial Records, Article 69 and 73 Petitions and Article 138 Complaints of Wrongs. See also Article 1331 of reference (j).

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0511 MATTERS OF PROPRIETY AND SPECIAL CIRCUMSTANCES

a. General. No public affairs activity is permitted that would conflict with the standards of conduct outlined in reference (m). Essentially, this prohibits any activity that would:

(1) Interfere with, or is not compatible with, the performance of official government duties;

(2) May reasonably be expected to bring discredit on the government, the Department of the Navy, the Navy or Marine Corps;

(3) Place government decision-making outside official channels; or

(4) Be otherwise inconsistent with the requirements of reference (m), including behavior that creates the appearance of a conflict of interests. Specific matters of propriety and special circumstances are discussed below.

b. Lobbying. Unless expressly authorized by the Congress, no part of funds appropriated by the Congress shall be made available, directly or indirectly, to pay for any personal service, advertisement, telegram, telephone, letter, printed or written material or other device intended to influence in any way a Member of Congress to favor or oppose, by vote or otherwise, any legislation or appropriation by the Congress. This prohibition is made by 18 USC, Section 1913 (1982), although other appropriation acts contain explicit prohibitions of a similar nature.

c. Mailing Unsolicited Material. Navy and Marine Corps news material sent official mail through the U. S. Postal Service may be addressed only to news media outlets which have either requested such material or have a clear interest in the material. In the latter category are military writers for newspapers, editors and station managers of media in the vicinity of a base who report on base news events, etc. This restriction does not apply to letters or printed matter sent under cover of a letter, nor does it apply to direct mail and other authorized advertising and promotional activities of the Navy and Marine Corps recruiting organizations.

d. Information Supporting Possible Claims Against the Government. Except in the discharge of official duties, no one will release any information, whether obtained from official records or within an individual's personal knowledge, which might be of aid or assistance in the prosecution of any claim against the United States. In case of doubt, consult the staff or command judge advocate.

e. Libelous or Slanderous Statements. Libel is written or printed defamation. Slander is spoken or oral defamation. Public affairs practitioners must scrupulously avoid the release of information that may be libelous or slanderous. The staff or command judge advocate should be consulted in doubtful cases. A person in the Department of the Navy who believes he or she has been libeled or slandered concerning the performance of official duties may institute legal action. In such cases, naval personnel should advise their commanding officer, who will report the circumstances to CHINFO or DIRPA and the Judge Advocate General.

f. Legislation. Unless specifically authorized by the Secretary of the Navy, no information will be released outside the government on any legislative recommendation made by the Department of Defense (or any board or Military

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Department within it) or on any report on a bill under consideration by the Congress or by any other Federal activity or agency.

g. Base Closures and Force Reductions. Reference (h) outlines coordination and clearance requirements for information dealing with base closures, force reductions and other actions which have significant social or economic impact. Because major changes in the status of activities normally result in intense Congressional and public interest, all actions must be examined, planned and coordinated at the highest levels so that the integrity of those decisions can be demonstrated to the Congress. Furthermore, the timing and nature of information released may require careful attention in order to conform to the environmental impact statement process. The following requirements are germane.

(1) In no case should there be any public confirmation or discussion of an action with significant social or economic impact until coordination has been completed at the Seat of Government. The following statement should be used in case of media query concerning closure, reduction, increase, establishment, consolidation or other action:

“The status of all Navy and Marine Corps bases and operations are constantly being reviewed in light of operational requirements and budget priorities. This review is part of an ongoing study to bring about increased efficiency and combat readiness while reducing costs. When decisions are made, Congress and the news media will be informed.”

(2) The office, command, fleet or systems command having primary cognizance over the matter is responsible for preparing a fact sheet, news release and contingency responses to query and any public affairs guidance to CHINFO or DIRPA who will coordinate the public release of information when it is necessary.

(3) After coordination with appropriate authorities and prior to public release, the Chief of Legislative Affairs will inform members and committees of the Congress who are interested in the matter.

(4) Notification of local authorities, State officials and local news media will be made by cognizant Navy or Marine Corps commands as soon as possible after congressional notification and preferably simultaneous with release to national news media. See also Article 0410 (Consultation with State and Local Municipal Officials).

R) **h. Names, Addresses, Biographies and Photographs.** Under the Freedom of Information Act (FOIA), a request for names and duty addresses (past, pres-

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ent, and future) of service members attached to units that are stationed in foreign territories, routinely deployable, or sensitive must be denied under exemption (b)(6) as a clearly unwarranted invasion of personal privacy. Lists of names and duty addresses not covered by this policy may also be exempt under (b)(2) if the administrative burden outweighs any public interest. If the requested information, however, is already available in the form requested, such as base telephone directories or organizational charts, it cannot be withheld as release would not be an administrative burden. The exception to this policy is discussed in Article 0508 (Release of Information that could Endanger Personnel). Under FOIA, home addresses and telephone numbers are not releasable unless authorized by the service member. Official photographs and biographies (the latter prepared by the officer, enlisted or civilian personnel concerned) are maintained by the PAO of the present command. The command will assure that the incoming and outgoing personnel check in with the PAO. Incoming personnel will prepare a biography, sign a privacy release form and arrange for an official photograph. Outgoing personnel will obtain copies of their biography and photographs, but privacy release forms will be retained by the PAO for a minimum of two years. Photographs and biographies may be released unless the command determines that public disclosure would constitute an unwarranted invasion of privacy or the individual withdraws written consent for release. Biographies and official photographs are required for all officers in command, executive officers (chiefs of staff, chief staff officers, deputies, etc.) and Command Master Chiefs and Sergeant Majors. Biographies will contain the following information:

- (1) Name, date and place of birth;
- (2) Name of spouse and children;
- (3) Hometown;
- (4) Education (since high school) and date graduated;
- (5) Service history (name of command, assignment, year of arrival and departure);
- (6) Decorations and service awards;
- (7) Effective date of promotions.

i. Flag and General Officers. All facts and statements which concern or are attributed to a Navy flag officer or Marine Corps general will be coordinated with that officer for approval. This requirement pertains to news releases, responses to query and the like. Flag and general officers will also be consulted for their comment and approval prior to arranging any news media encounter for them.

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0512 INFORMATION ON THE INJURED, WOUNDED AND HOSPITALIZED

a. General. The release of information concerning injured, wounded or hospitalized persons generally rests on considerations involving the personal privacy of those involved. Only information that does not constitute a clearly unwarranted invasion of their personal privacy can be released to the public. This release policy applies equally to the release of information from records of persons treated or hospitalized in a DOD medical facility or in a non-federal facility that DoD reimburses for the cost of health care. Information proposed for release must be carefully examined to ensure that the release is in conformance with the Privacy Act, Freedom of Information Act, Alcohol and Drug Abuse Acts, accepted medical practice and existing directives. When in doubt, PAOs should consult the staff or command judge advocate of the appropriate medical facility.

(1) The balancing test must be applied to determine whether the right of the public to obtain information outweighs the right of the individual to privacy. See Section C (The Balancing Test) of Chapter 7 (Privacy and Freedom of Information Acts).

(2) In cases of casualties of personnel diagnosed as terminally ill or with serious or very serious injuries or illnesses, the next of kin shall be notified via the most appropriate and rapid means of communication available. Until confirmation is received that this notification has occurred, information on the injured, hospitalized or wounded will be withheld. Consent of next of kin is required to release information surrounding the circumstances of a suicide or suicide attempt.

b. Release Not Requiring Individual's Consent. The following information may be released without the consent of the injured or hospitalized person. In cases of serious injury or illness, next of kin must be notified before the release of this information.

- (1) Name and rank of individual;
- (2) Date of admission or current disposition (e.g., treated and released);
- (3) Occupation or job title;
- (4) Sex;
- (5) Service, base, station or organization.

c. Release Requiring Individual's Consent. The following information can be released only with the consent of the individual involved and then only when specifically requested (that is, the information will not be volunteered). See also Article 0512d (Gaining Patient Consent).

- (1) Whether the patient is married or unmarried;
- (2) Age;
- (3) Present medical assessment in the following terms: condition stable, fair, etc.;

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(4) Whether the patient is conscious, semiconscious or unconscious.

(5) Description of the disease or injury (such as burn, fracture, gunshot wound, pain in the chest, etc.);

(6) General factual circumstances, such as "suffered a fracture in an automobile accident;"

(7) The general area of the body that was injured;

(8) General extent of the injury, such as "a severe injury."

d. Gaining Patient Consent. The consent of the patient or wounded person cannot be presumed. A patient who is conscious and competent must be given the chance to object to the release of any information listed in Article 0512c (Release Requiring Individual's Consent) above. If the patient objects, the information cannot be released. No elaboration is desirable or necessary in response to inquiry. Correspondents can simply be told, "The information you requested is considered protected under the provisions of the Privacy Act." If the patient is either not conscious or not mentally competent, information in Article 0512c above may not be released until the patient is sufficiently improved to object or give consent to releasing the information. In the case of an incompetent patient, the legal guardian or primary next of kin may make the decision.

e. Unreleasable Information. Information about or interviews with a psychiatric or mental health patient will be prohibited. The patient's prognosis and sensitive information that relates to a patient's admission (such as sexual assault, criminal activity, drug abuse reaction, etc.) must never be released. If pressed, the following statement may be used:

"Further details regarding N.'s (admission to the hospital) (condition) are not releasable at this time."

See also Article 0808b (Information on Persons Involved in Accidents) and Article 0513 (Electronic and Photographic Media Coverage of Injured Personnel).

f. Terms to Use and Avoid. Use of the term "casualty" will be avoided when referring to military personnel. Instead, personnel will be referred to as:

(1) Dead;

(2) Very seriously wounded, very seriously injured or very seriously ill;

(3) Seriously wounded, seriously injured or seriously ill;

(4) Slightly wounded, slightly injured or slightly ill;

(5) Duty status/whereabouts: Unknown (DUSTWUN)*;

(6) Missing.

* -- "Duty status/whereabouts: Unknown (DUSTWUN)" is an interim casualty status to provide officers in command sufficient time to evaluate the circumstances of a member's disappearance in a non-combat environment. DUSTWUN allows the

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on-scene commander a maximum of 10 days to conduct a search, evaluate evidence and determine the proper status of the member concerned. DUSTWUN will be used by a unit commander for any member not present for duty or unaccounted for under circumstances which would suggest that the absence may be involuntary (e.g., a lost boater). DUSTWUN will not be used in lieu of "unauthorized absence." Pay and allowances for members in DUSTWUN will be suspended on the date of disappearance. Casualty Assistance Calls Officers will be assigned for next of kin when a member is placed in a DUSTWUN status. At any time during the 10 day period, the on-scene commander may:

- (1) Report the member "Dead" even if the remains are not recovered;
- (2) Place the member in an "Unauthorized absentee" or "Deserter" status;
- (3) Place the member in a "Missing" status, thus invoking the provisions of the Missing Persons Act (37 U.S.C. 551-558). The member's final status must then be determined by the Secretary of the Navy or SECNAV's designated representative.

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**0513 ELECTRONIC AND PHOTOGRAPHIC MEDIA COVERAGE
OF INJURED PERSONNEL**

a. General. With regard to U. S. and allied personnel who have been killed, wounded in action, hospitalized, detained as a result of hostile action or missing in action, care must be exercised both in releasing Service-produced audiovisual products (e.g., photographs, recordings, etc.) as well as arranging external electronic and visual news media coverage of personnel in such situations. In all cases involving injured personnel--including those who have been wounded in action and personnel returned from detention--medical attention takes precedence over all other considerations. Weighing against the public's right to know is the individual's right to personal privacy and the right of the victim's family to dignity. Other factors involved in the decision to release audiovisual information or arrange electronic or visual news media coverage is the effect the publication or broadcast will have on families and friends and the potential adverse impact on unit morale. This policy does not prohibit the videotaping or photographing of personnel by official military photographers and camera operators as part of authorized combat documentation [see Article 0822 (Naval Combat Documentation)], but rather deals with the release of that visual documentation to the public.

b. Prohibited Audiovisual Information. Certain audiovisual products will not be released nor should electronic or visual news media representatives be allowed access to areas which would allow such documentation. These products include photography and videotape recordings of:

(1) Wounded or dead personnel who are recognizable but are not identified by name.

(2) Wounded personnel who are recognizable and identified by name whose next of kin have been notified.

(3) Wounded personnel who are recognizable and who have requested that their next of kin not be notified.

(4) Large numbers of deceased or wounded personnel. (Official photographs of combat dead under field conditions normally will not be released to the public or to news media.)

(5) Mangled bodies, bodies showing obvious expressions of agony or severe shock.

(6) Psychiatric or other mental patients (audio interviews are also prohibited).

(7) Amputees demonstrating prosthetic devices, unless written permission is obtained from the patient.

(8) Personnel missing in action or detained before the next of kin have been notified of the missing in action status and search and rescue operations have been terminated (pertains to video taken prior to being listed as detained or missing in action).

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(9) Combat wounded in transient medical facilities if the necessary intelligence debriefing has not been completed or if the media encounter would interfere with medical treatment (Applies also to audio interviews).

(10) Patients in naval medical facilities unless the patients consent in writing. In addition, the attending physician or the medical facility commander must make a determination that the encounter (and resultant publication or airing) will not jeopardize the condition or welfare of the patient and nearby patients.

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0514 POLITICAL INFORMATION AND ELECTION YEAR GUIDANCE

a. General. As a matter of law, the U. S. armed forces refrain from any activity or association that could be interpreted as linking the Services with political causes, candidates or organizations. This policy, and the requirements delineated below, apply with equal force to election campaigning and other political activities at federal, state and municipal levels. Department of the Navy personnel, including active duty Navy and Marine Corps, Naval Reserve and Marine Corps Reserve personnel and civilian employees are required to adhere to various regulations on individual participation in political activities, especially references (m), (n) and (o) and statutes summarized below.

(1) 5 U. S. C., Sections 7321 through 7327, prohibit:

(a) Use of official authority or influence to coerce the political action of a person or body;

(b) Any employee from requesting or receiving from or giving to another employee, Member of Congress or officer of a uniformed service anything of value for political purposes (e.g., political contributions);

(c) Any employee from using official authority or influence for the purpose of interfering with or affecting the result of an election or taking an active part in political management or political campaigns. This forbids activity such as organizing a political party or club, actively participating in fund-raising activities or partisan candidates or political parties, becoming partisan candidates for or campaigning for elective public office, actively managing campaigns of partisan candidates for public office, initiating or circulating partisan petitions and materials or soliciting votes for partisan candidates for public office or serving as a delegate, alternate or proxy to a political party convention.

(2) 18 U. S. C., Sections 602, 603, 606 and 607, prohibit any person in the service of the United States from:

(a) Soliciting, receiving or intimidating to secure a contribution or other thing of value for political purposes;

(b) Giving or handing over, directly or indirectly, to any other person in the service of the United States any money or other thing of value to be applied to the promotion of a political object.

These references, regulations and statutes address a wide range of activities, from speeches and campaign efforts to the distribution of political material and solicitation of support for a candidate. Military support of official, non-partisan political events may be appropriate under certain circumstances. Standing guidance on support of official functions provided in Chapter Four (Community Relations) should be followed and requests for clarification directed to CHINFO or DIRPA.

b. Internal Information Requirements and Prohibitions. Authorized Navy and Marine Corps newspapers, periodicals and commercial enterprise publications will not carry discussions, cartoons, editorials or commentaries dealing with political campaigns, candidates or issues which are partisan in nature or appear to support or criticize particular political causes or candidates. Political coverage is restricted to that authorized and distributed by the American Forces

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Information Service (AFIS) [OASD(PA)] which, through the Armed Forces Radio and Television Service (AFRTS) and other activities, makes available to military personnel and their families factual, comprehensive political news from the United States. Internal media are required to carry as a seasonal message or theme guidance on authorized political activity before and during an election period. For information on formulating and planning an internal information effort involving seasonal messages or themes, see Article 0203b (Command Internal Information Planning) and Article G-0203 (Internal Information Organization and Planning).

c. Restrictions on Use of Facilities. To avoid conflict, material interference with military mission and assure good order and discipline, installation commanders should not allow any political activity in their areas of responsibility nor allow any equipment or assigned personnel to be used by any candidate, staff member or campaign representative for political purposes. Political assemblies and activities can include, but are not limited to, fund raising dinners for candidates, causes or organizations regardless of sponsorship; social events in clubs and messes with campaigning as their real or apparent purpose; press conferences or similar political and related activities. "Candidate" includes either the incumbent or a new office seeker. If a federal (vice state or local) candidate or campaign organization representative requests a proposed visit or briefing, the command shall first consult the Chief of Legislative Affairs, via the chain of command, prior to confirming visit arrangements. Further restrictions on use of facilities and equipment and other related policy matters are discussed below.

(1) Navy or Marine Corps support--bands, color guards and similar units--will not be provided to political meetings, ceremonies or similar events.

(2) Requests for speakers from the Navy or Marine Corps shall be carefully evaluated to preclude participation in politically-oriented programs.

(3) The court has ruled that installation commanders may not enforce a blanket prohibition against the distribution of printed materials on a base. Commanding officers may condition the distribution of written materials on his or her prior approval; commanders cannot, however, enforce an instruction or order which per se prohibits the distribution of all campaign material. Accordingly, the commander should issue a directive which states that, regardless of topic, no materials (e.g., brochures, newsletters, political literature, circulars, etc.) may be distributed on base without the prior written approval of the officer in command. In this directive, the commander should indicate that decisions to approve or disapprove the distribution of such material will be based on a number of factors, including but not limited to: whether the material would materially interfere with the accomplishment of the command's military mission and whether the material would be prejudicial to good order, discipline, health, welfare and morale of assigned personnel. That is, the officer in command who is intent on not allowing any political activity on the installation can prohibit the distribution of political materials on the installation only if he or she determines on a case-by-case basis that material submitted for distribution approval would materially interfere with the accomplishment of the command's military mission and run counter to good order and discipline. Consult the staff or command judge advocate and the following: United States v. Albertini, 105 S. Ct. 2897 (1985); Greer v. Spock, 424 U. S. 828 (1976); Brown v. Glines, 444 U. S. 348 (1980) and reference (n).

(4) Speeches, articles and public comment by Navy and Marine Corps personnel, in their official capacities, must not contain information which may be

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construed as political in nature. When proposed responses to news media inquiries have overt political information or unavoidably contain an expression of opinion on political causes, candidates or organizations, the news media representative will be informed that his or her question cannot be answered. A statement similar to the following should be used:

"You have asked a question that would require a statement on a political matter. It is long-standing Department of Defense policy to refrain from statements which tend to associate the Services with a particular political (cause, candidate or organization). Accordingly, no reply is appropriate."

News media representatives with repeated queries beyond the scope of this guidance should be referred to CHINFO or DIRPA. See also references (n) and (o).

d. Authorized Use of Facilities. Members of Congress, whether or not they are candidates for reelection, may be granted access to Navy and Marine Corps ships and installations in their official capacities. They may not be granted access to a ship or installation in their roles as candidates. Political activities, including campaign activities, should not be conducted on board a naval installation by any persons, including incumbents. Any request for such activity received directly from a Member's office should be referred to the Chief of Legislative Affairs who will respond to the request and provide necessary instructions to the concerned command via the chain. Consult the staff or command judge advocate and the following: United States v. Albertini, 105 S. Ct. 2897 (1985); M.N.C. of Hinesville v. Department of Defense, 791 F.2d 1466 (11th Cir. 1986) and reference (o). Commanders should not hesitate to inform candidates that political activity on Navy and Marine Corps installations is prohibited. See also Article 0310 (Communication with Elected Officials, Private Groups and Individuals).

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**0515 USE OF MILITARY VESSELS AND AIRCRAFT FOR
PUBLIC AFFAIRS PURPOSES**

a. General Policy. Policy on the transport of non-government civilians in military aircraft varies according to whether:

- (1) Civilians are news media representatives;
- (2) Travel is local or nonlocal using the definitions provided in subparagraph c below;
- (3) Purpose of the travel is to get to a desired destination or to observe the Navy or Marine Corps first-hand;
- (4) There is clear benefit to recruiting.

b. Basic Requirements. Authority to embark non-government civilians in naval vessels and military aircraft is vested in the CNO by Chapter Seven of reference (b). Nothing in this article shall be construed as limiting their authority in this regard. In addition, the senior officer present may, on his or her own authority, embark civilians in naval vessels if necessary in public or humanitarian interest, as per Article 710.2 of reference (b). The following are basic guidelines, based on policy contained in references (p) and (q), for all types of travel in Navy and Marine Corps aircraft and vessels.

- (1) Military transport facilities shall not be placed in competition with U. S. commercial carriers.
- (2) Travel or transportation for public affairs purposes must be determined to be primarily in the interest of DoD, the Department of the Navy and the Navy or Marine Corps.
- (3) Travel which is designed to improve relations, increase goodwill or serve humanitarian purposes does not meet the criteria for public affairs travel. Requests for travel for these purposes will be made per pertinent provisions of reference (q).
- (4) Short trips between an airport (or other transportation center) and a command are also authorized. Cars and buses within the resources of a command may be used for meeting official guests or taking them to make outbound travel connections.
- (5) When travel is of interest to or will affect more than one command or Service, the approving authority will coordinate the travel request with all other interested commands, Services and agencies.
- (6) Only ASD(PA) has the authority to approve public affairs travel arranged by the Navy or Marine Corps in conjunction with another federal department or agency or with a foreign government. ASD(PA) may delegate this authority. Navy and Marine Corps commands desiring authorization for such travel will forward requests to CHINFO or DIRPA via the chain.
- (7) If a request for nonlocal public affairs travel is disapproved, the command disapproving the request should explain the reasons for the decision.

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(8) ASD(PA) in consultation with the appropriate Unified Commander approves travel that either involves units of a Unified Command or transit through a Unified Commander's region of responsibility. The command hosting the travel shall originate the authorization request through command channels, and via the CHINFO or DIRPA.

c. Local and Nonlocal Public Affairs Travel. Local travel is that travel which can be considered local both as to the distance from the installation or the headquarters of the command involved, and as to the scope of interest in the public affairs effort or program. Carrier Onboard Delivery (COD) flights and helicopter flights to and from ships are considered local travel. Nonlocal travel is either:

(1) Travel from one country to another,

(2) Travel outside the geographic area of responsibility of the command originating the travel request or

(3) Travel which cannot be considered local due to the distance of the travel or the distance from the installation or the headquarters of the command requesting the travel.

Generally, if the travel is part of a public affairs effort that affects more than one service, two or more major commands of flag or general officers or a significant geographic region, the travel is considered nonlocal for purposes of this instruction.

d. Group Transportation. Although groups customarily provide their own transportation to Navy and Marine Corps commands, commands may provide transportation when:

(1) Commercial transportation is not available or not feasible;

(2) A professional group visit has been solicited by the service (as is the case with educators on a Navy Educator Orientation Visit or Marine Corps Command Visit);

(3) Use of Navy or Marine Corps transportation while in the confines of or in the immediate vicinity outside of military installations would clearly enhance physical security and group control.

Requests for group, nonlocal transportation shall be forwarded via the chain of command to CHINFO or CMC who will coordinate as necessary with CNO or CMC.

e. Transportation of News Media Representatives. Subparagraphs (1) through (9) below pertain to the embarkation and movement of media representatives in vessels and aircraft of the Navy and Marine Corps for news gathering or their transit to an operational area in military ships and aircraft for newsgathering. It does not apply to senior news media business leadership traveling as Navy guest cruise participants (e.g., corporate executives invited as SECNAV guests); see Article 0405 (Tours, Guest Cruises and Public Visitation). It does apply to the travel of news media representatives whether or not in a newsgathering capacity; this includes managers of news functions (e.g., Vice President, XYZ Network News). It does not govern correspondents in the following circumstances: visits to ships in port, correspondents remaining aboard during in-harbor berth

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shifts (considered equivalent to visits to ships in port) and visits to Navy and Marine Corps shore stations in the Continental U. S. For additional guidance, see Articles 0306j (News Media Embarkations) and 0405 (Tours, Guest Cruises and Public Visitation). For additional guidance on transportation assistance for news media during an operation or exercise, see Article 0603 (Short-Range or Operation-Oriented Public Affairs Plan).

(1) Local Travel. Officers in command are authorized to approve local travel or transportation for public affairs purposes wholly within the scope of the mission and responsibilities of their respective commands, if:

(a) The public affairs subject matter is not properly the responsibility of a higher command;

(b) The public interest in the public affairs purpose involved is confined primarily to the mission and vicinity of that command;

(c) The travel is being provided for the benefit of local media or individuals other than local media who are part of an approved local public affairs program, including community relations programs that meet a military public affairs objective.

Aircraft used in transportation should be a helicopter or multi-engined, dual-piloted aircraft available within the resources of the command not to interfere with operational priorities. (This does not apply to orientation flights.) For passenger safety requirements (e.g., survival training), see reference (r).

(2) Nonlocal Travel. For nonlocal travel that does not fall within the area of responsibility of a Unified Commander, submit requests to CHINFO or DIRPA who will forward them with a recommendation to CNO or CMC and, if necessary, to ASD(PA). Submit nonlocal travel requests to the Unified Commander when the travel is expected to occur in that officer's area of responsibility. Nonlocal travel requests to foreign countries should be coordinated with the Embassy of the country to be visited.

(3) Travel for Coverage of Emergent News. Occasionally, travel will be proposed to facilitate news coverage of a major emergency. If a travel request is delayed or military transportation is not provided speedily, the resultant coverage may be impaired. This impairment could be detrimental to the interests of the Department of Defense in meeting its obligation to the American public and the news media. Accordingly, to facilitate travel authorization to cover a major emergency, the most expeditious means--including the telephone--should be used by commands initiating the request. Justification for the travel should include both the public affairs purpose and the need for a military carrier.

(4) Travel between the U. S. and Overseas. Upon the recommendation of CHINFO or DIRPA, CNO or CMC may authorize military transportation for correspondents in unusual circumstances. The command initiating the request on behalf of the correspondent to cover a specific assignment overseas should forward the request at least three weeks prior to the date desired to ASD(PA) via the appropriate Unified Commander with copy to CHINFO or DIRPA. Requests shall include:

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(a) A statement that the correspondent is a full-time employee or is under hire for a specific assignment and that the primary purpose of the trip is newsgathering;

(b) Appropriate date of entry into area, port of entry, method of travel, proposed duration of visit and travel termination date;

(c) Assurance that the correspondent will observe currency control regulations and the sponsoring news agency will guarantee financial obligations incurred.

R) (5) Embarkation of Male and Female Correspondents. Both male and female correspondents may be embarked in naval ships for passage between ports within the area of a single numbered fleet command for the purpose of newsgathering. Such an embarkation will be approved by the cognizant fleet commander-in-chief or Chief of Naval Air Training as appropriate. Invitational travel orders can be issued to correspondents. This authority may be delegated to numbered fleet commanders or type commanders.

(6) Embarkation of Female Correspondents. Whenever practical, privileges accorded female correspondents will be the same as those accorded males. Female correspondents may not remain at sea overnight in a naval ship without prior approval of the appropriate fleet commander in chief. This authority may be delegated to the numbered fleet commanders or type commanders.

(7) Travel in Ships of the Military Sealift Command. Correspondents may be embarked in Military Sealift Command vessels on either a space-required or space-available basis when travel is determined to be in the best interests of the Navy or the DoD.

(8) Embarkation in Maritime Prepositioning Ships. Commands receiving requests from correspondents to embark in Maritime Preposition Ships shall forward these requests via DIRPA as well as CHINFO to ensure that CMC concurs in the embarkation.

(9) Reimbursable Travel. ASD(PA) is responsible for approval of travel or transportation by DoD-owned or -controlled aircraft concerning public affairs programs arranged by any agency or command of DoD, jointly with, or at the request of, another federal department, agency or foreign Government on a reimbursable basis. See reference (q).

f. Air Transportation for Navy League Members and Sea Cadets. Space-available air transportation may be provided Navy League members if they are invited to accompany a flag or general officer attending a Navy League convention or regional meeting. The trip must be economically justifiable and based on military travel considerations and not community relations or public affairs reasons. Approval in each instance will be obtained from CHINFO in the case of members accompanying flag officers and the DIRPA for those accompanying general officers. Special provision is made for air transportation of Navy League Sea Cadets that is not available to other youth programs, including those sponsored by the Navy League.

(1) Flights will be in Navy or Marine Corps multi-engined, fixed-wing transport aircraft.

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(2) Flights must not interfere with operational commitments or training or result in any additional expense to the government.

(3) Space-required flights are permissible. Point-to-point, space-required flights are governed by a limited, annual quota set by CNO. Space-available transportation is also authorized and will not be charged against the space-required quota if it does not cause a delay in take-off or a change to the itinerary planned for the aircraft's primary mission.

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